

Case 1:16-cv-00454-PLR-CHS Document 1 Filed 11/10/16 Page 1 of 5 PageID #: 1

4. In her Complaint, Plaintiff asserts certain claims against LM and seeks compensatory damages, damages of pain, suffering, and loss of enjoyment of life, lost wages and earning capacity, statutory bad faith penalty of twenty-five percent (25%) of Plaintiff's claim, cost of this action, and attorney's fees based on what she describes as a bad faith claim from Defendant's offer of \$78,000.00 to settle the claim. (Compl. ¶¶ 6-13)

## **II. THIS NOTICE IS TIMELY FILED**

5. This notice of removal is timely filed within thirty days of this action becoming removable. *See* 28 U.S.C. § 1446(b) (2011). The Complaint was filed on September 29, 2016, 2016 and LM

was served on October 13, 2016, which is less than 30 days from the filing of this Notice.

## **III. REMOVAL PROCEDURES**

6. Removal of this case is proper under 28 U.S.C. § 1441(a), which provides in pertinent part, that "any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending." 28 U.S.C. § 1441(a) (2011).

7. Venue is appropriate in this Court pursuant to 28 U.S.C. § 1441(a). LM seeks to remove this case to the United States District Court for the Eastern District of Tennessee, at Chattanooga. The Chancery Court of Hamilton County, Tennessee is located within this District and cases arising from Hamilton County are properly assigned to the Eastern Division at Chattanooga of this Court. *See* 28 U.S.C. § 123(a)(1).

8. In compliance with 28 U.S.C. § 1446(a), a copy of all "process, pleadings, and orders" received by LM is attached hereto as **Exhibit A**.

9. Defendant has filed this Notice of Removal with this Court, is contemporaneously serving a copy of the Notice of Removal upon Plaintiff, and is filing a copy of this Notice of Removal in the Hamilton County Chancery Court pursuant to 28 U.S.C. § 1446(d). A copy of the Notice of Filing Removal that is being filed with Hamilton County Chancery Court is attached hereto as **Exhibit B**.

#### **IV. THIS COURT HAS DIVERISTY JURISDICTION**

10. This Court has original jurisdiction over this action under 28 U.S.C. § 1332, which provides: “The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between – (1) citizens of different States.” 28 U.S.C. § 1332.

11. Pursuant to 28 U.S.C. § 1441(b), “[a]ny other such actions shall be removable only if none of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.”

12. Plaintiff is a resident of Hamilton County, Chattanooga, Tennessee. (Compl. ¶ 1.)

13. LM General Insurance Company is a company organized under the laws of the State of Illinois and whose principal place of business is 175 Berkeley Street, Suffolk County, Boston, Massachusetts. For purposes of diversity, LM is a citizen of Illinois and Massachusetts. 28 U.S.C. § 1332(c)(1).

14. Accordingly, complete diversity of citizenship exists between the parties because Plaintiff is a citizen of Tennessee, and Defendant is an Illinois and Massachusetts entity operating out of its principal office in Massachusetts.

15. The amount in controversy requirement is also satisfied. In their Complaint, Plaintiff requests compensatory damages in the amount exceeding of \$78,000.00; damages of pain,

suffering, and loss of enjoyment of life; lost wages and loss of earning capacity; statutory bad faith penalty of twenty-five percent (25%) of Plaintiff's claim, all costs incurred as a result of this action and attorney's fees. (*See generally* Compl. and Prayer for Relief.) The value of the damages claimed regarding the Property exceeds \$75,000.00. Therefore, the Complaint on its face, establishes an amount in controversy in excess of \$75,000.00.

## **V. CONCLUSION**

WHEREFORE, LM respectfully requests the above-captioned action now pending in the Hamilton County Chancery Court of Chattanooga, Tennessee, be removed to the United States District Court for the Eastern District of Tennessee, at Chattanooga, that this Court assume jurisdiction of this action and enter such other and further orders as may be necessary to accomplish the requested removal and promote the ends of justice.

Respectfully submitted,

*s/ John R. Wingo*

John R. Wingo (BPR# 16955)  
STITES & HARBISON, PLLC  
SunTrust Plaza  
401 Commerce Street, Suite 800  
Nashville, TN 37219-2376  
Telephone: (615) 244-5200  
Email: [john.wingo@stites.com](mailto:john.wingo@stites.com)

*Counsel for Defendant, LM General Insurance  
Company*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 10<sup>th</sup> day of November 2016, a copy of the foregoing *Notice of Removal* was filed with the Clerk's office and served electronically and/or via first-class U.S. mail, postage prepaid, upon the parties as indicated below. Parties may also access this filing through the Court's ECF system.

C. Mark Warren  
WARREN & GRIFFIN, P.C.  
736 Georgia Avenue  
Suite 600, Dome Building  
Chattanooga, TN 37402  
Telephone: (423) 265-4878  
Email: cmark@warrenandgriffin.com

*Counsel for Plaintiff*

s/ John R. Wingo

1197598:2:NASHVILLE